

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CASE NO. 5:10-CV-00142-RLV-DSC**

RUTH G. JACOBS,
Plaintiff,
v.
MICHAEL J. ASTRUE,
Commissioner of Social Security,
Defendant.

ORDER

MICHAEL J. ASTRUE,
Commissioner of Social Security,
Defendant.)

THIS MATTER is before the Court on Defendant Commissioner's Motion to Dismiss for Lack of Prosecution, filed on January 20, 2012. (Doc. 10.) Plaintiff has not filed a response, and the period for doing so has expired.

On September 21, 2010, Plaintiff filed her pro se Complaint, appealing the Commissioner's decision to deny her Application for Disability Insurance Benefits under Title II of the Social Security Act, 42 U.S.C. §§ 401–33. (Doc. 2.)

On December 14, 2010, Defendant filed its Answer and the Administrative Transcript.
(Doc. 8.)

On December 17, 2010, the Court issued a Scheduling Order, which set Plaintiff's deadline for filing a Motion for Summary Judgment and Memorandum in Support for February 18, 2011. (Doc. 9.)

Plaintiff has neither filed a motion for summary judgment nor requested an extension of time to file such a motion. Additionally, she has failed to respond either to the pending Motion to Dismiss or to Magistrate Judge Cayer's Memorandum and Recommendation advising that the

pending Motion to Dismiss be granted. Under these circumstances, where the Plaintiff has wholly failed to prosecute her Social Security appeal or respond to the instant Motion, dismissal is a necessary and appropriate remedy for the efficient administration of justice. *See, e.g., Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962) (discussing Federal Rule of Civil Procedure 41(b) and the district court’s authority to dismiss an action for failure to prosecute *sua sponte* or upon the motion of an opposing party in order to “achieve the orderly and expeditious disposition of cases”); *Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989) (holding that courts have the authority to order dismissal of an action for failure to comply with court orders).

IT IS, THEREFORE, ORDERED that Defendant’s Motion to Dismiss for Failure to Prosecute (Doc. 10) be **GRANTED** and that the Commissioner’s determination be **AFFIRMED**.

Signed: May 22, 2012



Richard L. Voorhees
United States District Judge

